

DIST/OFFICE	DOCKET		FILING DATE			J	N/S	O	R	R 23	\$	DEMAND OTHER	JUDGE NUMBER	JURY DEM.	DOCKET	
	YR.	NUMBER	MO.	DAY	YEAR										YR.	NUMBER
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PLAINTIFFS

Mrs. Gloria Waterloo

DEFENDANTS

D. M. Berry, L. C. Leininger &
J. L. Merrill, individually,
jointly and as the Oklahoma Tax
Commission; Earl Wade, individually
and as a Tax Agent; and ~~Quinton~~
~~Auto Service~~ 2-11-76

Three Judge Case

CAUSE

Title 28, U.S.C. Sec. 1331 Federal Question, Sec. 1343 - Subsections (3) & (4)
Title 42, U. S. C. Sec. 1983 - Action for deprivation of civil rights

Plfs. property was seized from private property under color of law without
due process.

ATTORNEYS

Delbert Brock
University Club Tower
Tulsa, Oklahoma 74119

918-584-5115

Jim Gray
Larry Derryberry (Okla. Tax Comms.
Paul C. Duncan defts.)
112 State Capitol Bldg.
Okla. City, Okla. 73105

Don Hamilton (J.L. Merrill & L.L. Leininger)
800 Cravens Building
119 North Robinson
Oklahoma City, Oklahoma 73102
(405-232-8185)

Alan B. McPheron (for D. M. Berry)
116 N. Third
Durant, Ok. 74701

Bill Heskett (Earl Wade)
P. O. Box 447
Pawhuska, Oklahoma 74056
(918)287-1545

For Deft:
Donald B. Nevard,
Gen. Counsel
Okla. Tax Com.
405- 2501 Lincoln Blvd.
521-3141 Okla. City, Okla. 73194

~~Paul V. McGivern, Jr. (Quinton Auto)~~
~~McGivern & Scott~~
~~202 Denver Building~~
~~Tulsa, Oklahoma 74119~~ 504-2211

<input type="checkbox"/> CHECK HERE IF CASE WAS FILED IN FORMA PAUPERIS	FILING FEES PAID			STATISTICAL CARDS	
	DATE	RECEIPT NUMBER	C.D. NUMBER	CARD	DATE MAILED
				JS-5	8-1-75
				JS-6	1-1-77

DATE	NR.	PROCEEDINGS
7-1-75	1.	Complaint filed. mm
7-1-75	2.	Mtn. for Temporary Rest. Order and Order to Show Cause why Prel. Inj. should not issue, filed.jj
7-1-75	3.	Affidavit in Support of Mtn. for Temp. Rest. Order and Prel. Inj., filed.jj
7-1-75	4.	Temporary Rest. Order and Order to Show Cause Why Prel. Inj. should not issue., filed.jj Hearing set 7-18-75 at 1:30 p.m.. Pltf. to post security bond of \$1000.00.
7-3-75		Summons issued w/Complaint, Mtn & Order.jj
7-3-75	5.	Bond (\$1,000 cash), filed. rm
7-16-75	6.	Order, filed, consituting 3-judge Court as follows: Hon. Wm. J. Holloway, US Circuit Judge; Hon. Allen E. Barrow, USDC & Hon. H. Dale Cook, USDC. (David T. Lewis, Ch, Judge, USCA)hm (copies mailed counsel & 3 Judges)
7-17-75	7.	Motion of pltf. to strike hrg. on pltf. mo/Prel. Inj., filed. rm
7-17-75	8.	Order, filed, striking hrg. set for 7/18/75 re prel. inj.; further ordered that TRO issued on 7/1/75 and filed on 7/2/75 is continued and remains in force until case is heard by 3-Judge Panel.(HDC-J)rm-copies md.
7-22-75		Summons, ret. & filed: served Earl Wade and Quinton Auto Service at huska, Ok. on 7-11-75; served Governor David Boren, Okla. Tax Com., LxxxOxxxLeininger and Larry Derryberry, Atty. Gen., Okla. City, on 7-8-75; served J. L. Merrill and D. M. Berry, Okla. City. on 7-15-75. (USM \$80.88)g--L. C. Leininger was served 7-9-75 in OK City.
7-25-75	9.	Answer of Defts. J. L. Merrill & L. L. Leininger, filed. v
7-25-75	10.	Affidavit of J. L. Merrill, filed. v
7-25-75	11.	Affidavit of L. L. Leininger, filed. v
7-25-75	12.	Motion of Deft. J.L. Merrill & L.L. Leininger to Dismiss, filed. v
7-25-75	13.	Brief in support, filed. v
7-25-75	MO:	It is ordered by the Court that Plaintiff is granted 10 days from this date to respond to the Motion to Dismiss filed by Defts. J.L. Merrill & L.L. Leininger. (HDC, WJH, AEB-Judges)v
7-28-75	14.	Applic. of deft. Leininger, Vice-Chairman, Okla. Tax Commission for ext. of time to answer, filed. hm
7-28-75	15.	Order, filed, extending to 8-4-75 the time in which deft. Leininger, Vice-Chairman, Okla. Tax Commission may ans. (JCS-Clk)hm (copies mailed counsel & Judges)
7-30-75	16.	Motion of D. M. Berry to dismiss, filed. g
7-30-75	17.	Affidavit of D. M. Berry, filed. g
7-30-75	18.	Brief in support of mot. to dismiss, filed. g
7-30-75	19.	Answer of D. M. Berry, filed. g
	MO	It is ordered by the Court that Pltf. is granted 10 days from this date to respond to the mot. to dismiss filed by deft. D. M. Berry. (HDC-J)g
7-30-75	20.	Motion of Ken Quinton, d/b/a Quinton Auto Service, to Strike, filed with brief in support attached, filed. v

CIVIL DOCKET CONTINUATION SHEET

PLAINTIFF		DEFENDANT	DOCKET NO. <u>75-C-257</u> Sheet 2, Page 3 XXXXXXXXXXXXXXXXXXXX
Mrs. Gloria Waterloo		D.M. Berry, et al.	
DATE	NR.	PROCEEDINGS	
7-30-75	21.	Motion of Ken Quinton, etc., to make more certain, filed with brief in support attached. v	
7-30-75	22.	Motion of Ken Quinton, etc., to Dismiss, filed w/brief in support attached. v	
7-31-75	M0:	It is ordered by the Court that Plaintiff is granted 10 days from this date to respond to Deft. Ken Quinton, d/b/a Quinton Auto Service, Mot. to Strike, his Mot. to Make More Certain, and his Mot. to Dismiss. (HDC-J)v	
7-30-75	23.	Motion of Deft. Earl Wade, to Strike, filed w/brief in support attached. v	
7-30-75	24.	Mot. of Deft. E. Wade to Make More Certain, fld. w/brief in support attached. v	
7-30-75	25.	Mot. of Deft. E. Wade to Dismiss, fld. w/brief in support attached. v	
7-30-75	M0:	It is ordered by the Court that Pltf. is granted 10 days from this date to respond to Deft. Earl Wade's Mots. to Strike, to Make More Certain & to Dismiss. (HDC-J)v <i>re pldgs 20-25 - copies to be in - to go to 3 judges. 7-30-75. v.</i>	
8-1-75	26.	Application for Extension of Time of Plaintiff, Gloria Waterloo, filed. mm	
8-4-75	27.	Order, filed, allowing pltf. to file amended complaint by 8-14-75; time to reply to Mot. to dismiss ext. to 8-15-75. (HDC-J)g <i>next 3 pages</i>	
8-4-75	28.	Answer of D. M. Berry, L. C. Leininger and J. L. Merrill, filed. g <i>4 pages</i>	
8-14-75	29.	Pltf's Amended Complaint, filed. lm <i>mld 03 go</i>	
8-15-75	30.	Pltf's Brief in Reply to Mtns. to Dismiss, filed.jj	
8-20-75	31.	Pltf's Brief in Response to Motions to Strike, filed. lm <i>234</i>	
8-20-75	32.	Pltf's Brief in Response to Motion to Make More Certain, filed. lm	
8-28-75	33.	Answer to Amended Complaint of Defendants, J. L. Merrill & L. L. Leininger, filed. mm	
9-2-75	34.	Paul V. McGivern, Jr.'s Entry of Appearance as Attorney for Quinton Auto Service, filed. mm	
9-2-75	35.	Heskett & Heskett, Attorneys for Kenneth Quinton d/b/a Quinton's Auto Service Application to Withdraw as Attorneys, filed. mm	
9-2-75	36.	Order Granting Application of Heskett and Heskett to withdraw as Attorney for Kenneth QUinton, filed. (HDC-J) cps mld mm (To remain as counsel for Earl Wade)	
9-3-75	37	Answer of D. M. Berry to amended complaint, filed. g	
9-16-75	38.	Order, filed, that motions to dismiss of Leininger, Merrill, Quinton Auto, Earl Wade and Berry, are overruled; that motions to make more definite and certain of defs., Quinton Auto & Wade, are overruled; that motions to strike of defs., Quinton Auto and Wade, are overruled; and that defs. are granted 10 days from this date to file an answer to the Complaint.(HDC-J)rm - copies to AEB,WJH, and counsel	
9-24-75	39.	Defts. D.M. Berry, L. C. Leininger and J. L. Merrill <u>ANSWER</u> to Amended Complaint, filed. lm <i>to 3 judges.</i>	

JL DOCKET CONTINUATION SHEET

PLAINTIFF		DEFENDANT	DOCKET NO. 75-C-257 Sheet 2, Page 4 XXXXXXXXXXXXXXXXXXXX
Mrs. Gloria Waterloo		D.M. Berry, et al.	
DATE	NR.	PROCEEDINGS	
9-25-75	40.	<u>ANSWER</u> of def., Quinton Auto Service, filed. rm	
9-26-75	41.	<u>ANSWER</u> of deft., Earl Wade, filed. lm	
9-26-75	42.	<u>ANSWER TO AMENDED COMPLAINT</u> of deft., Earl Wade, filed. lm	
12-3-75	MO:	Case set for pre-trial hearing 2-3-76 at 11:00 a.m. (HDC-J)hm	
12-9	43.	Interrogatories to pltf. by deft. J. L. Merrill, filed. g	
12-9	44.	Request for admission of facts, filed by deft. J. L. Merrill. g	
12-9	45.	Interrogatories to pltf. by deft. L. L. Leininger, filed. g	
12-9	46.	Request for admission of facts, filed by deft. L. L. Leininger. g	
12-15	47	Entry of Appearance of Donald B. Nevard for Deft Okla. Tax. Comm., filed. lm (cps to Judges)	
12-19	48.	Interrogatories by defts. Merrill and Leininger to deft. Quinton Auto Service, filed. g	
12-19	49.	Request for Admission of facts directed to deft. Earl Wade by defts. Merrill and Leininger, filed. g	
<u>1976</u>			
1-9	50.	Ans. to Request for Adm. of Facts of J. L. Merrill, filed.jj	
1-9-	51.	Ans. to Request for Adm. of Facts of L. L. Leininger, filed.jj	
1-9	52.	Pltf's Ans. to Int. of Deft. L. L. Leininger, filed.jj	
1-9	53.	Pltf's Ans. to Int. of Deft. J. L. Merrill, filed.jj	
1-27	54.	Mot. for separation for trial of the issue of Constitutionality of 47 O.S. Sec. 22.12, 22.17, 22.20, and the Issue of Liability & Damages, filed.t	
1-27	55.	Brf. in support of Mot., filed.t	
	MO.	It is ordered by the Ct. that Pltf. is granted 10 days from this dt., to respond to Defts' J. L. Merrill & L. L. Leininger's, Mot. for sep. for trial of the issue of constitutionality of 47 O.S. Sec. 22.12, 22.17 and 22.20, and the issue of liability.t	
1-28	56.	Request for Admissions, filed.jj	
1-28-7	57.	Mtn. for Separation for Trial of the Issue of Constitutionality of 47 OS Secs. 22.12, 22.17 & 22.20 and the Issue of Liability and Damages, filed.jj	
1-28	58.	Brief in Support of Mtn. for Separation for Trial of the Issue of Constitutionality of 47 OS Secs. 22.12, 22.17 & 22.20, & the Issue of Liability and Damage, filed.jj	
1-28	MO:	It is ordered by the Court that the plaintiff file a responsive brief within 10 days to the defts. Berry, Leininger & Merrill, Mtn. for Separation for Trial of the Issue of Constitutionality etc. & the issue of liability and damages. (HDC-J)jj	
1-28	59.	Deft. Quinton Auto Service Answers to Interrogatories of J. L. Merrill and L. L. Leininger, filed.jj	
1-29	60.	Mo. of deft., Quinton Auto Service, for separation for trial of the issue of Constitutionality of 47 O.S. Sec. 22.12, 22.17 and 22.20, and the issue of liability and damages, filed. ph	

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COOK-HOLLOWAY-BARROW

CIVIL DOCKET CONTINUATION SHEET

PLAINTIFF		DEFENDANT	DOCKET NO. <u>75-C-257</u> Sheet <u>3</u> , Page <u>5</u> XXXXXXXXXXXXXXXXXX
Mrs. Gloria Waterloo		D. M. Berry, et al.	
DATE	NR.	PROCEEDINGS	
<u>1976</u>			
1-29	61.	Brief in support of mo. of deflt. Quinton Auto Service, for separation for trial, filed. ph	
1-29	MO:	It is ordered by the Court that all parties file a responsive brief within ten (10) days to the deflt. Quinton Auto Service's mo. for separation for trial of the Issue of Constitutionality of 47 O.S. Sec. 22.12, 22.17 and 22.20, and the issue of Liability and Damages. (HDC-J)ph cps mld.	
2-3	62.	Deflt. Earl Wade's admissions to J. L. Merrill's and L. L. Leininger's request for admissions of fact, filed. ph	
2-3	63.	Mot. for separation for trial of the issue of constitutionality of 47 O.S. 1971, Sec. 22.12, 22.17 & 22.20 and the issue of liability & Damages, filed. t cps. mld. to J's.	
2-3	MO:	Pre-trial hearing held. All parties represented. Statements made. PT order submitted for approval by the panel. Stip. of facts contained in PT order. Pltf's oral mo. to dismiss against deflt. Quinton Auto Serv. granted, and counsel for said deflt. to prepare order of dismissal, present to pltf. for approval and then to the Ct. Parties all announce discovery complete. Defts waive answers to request for adm. from pltf. Parties state there will be no witnesses called at the time of trial. Pltf. moves for separ. of issues of trial, along with defts. Ct. to consult with Judges Holloway and Barrow re possible bifurcation. If panel decides case should be bifurcated, parties to be req. to file briefs on quest. of constitutionality and matter will then be considered submitted on that quest. Parties to be advised as to decision, and indiv. defts. granted leave to adopt briefs to be filed by deflt. Okla. Tax Comm. (HDC-J)ph	
2-9	64.	Pltf's response to motions for separation for trial of the issue of Constitutionality of 47 O.S. 1971, Sec. 22.12, 22.17 and 22.20 and the issue of liability and damages, filed. ph	
2-11	65.	Order, filed & entered, dismissing complaint against defendant Quinton Auto Service. (HDC-J)g cp. mld.	
2-26	66.	Pltf. answer to Okla. Tax request for admissions, filed. rm (cpy to Js)	
3-10	67.	Pre-trial order, filed. (HDC-J)hm (copies mailed)	
3-19	MO:	The Judges have agreed that the issues will be bifurcated; the issue relating to the constitutionality of the statute, as requested by the parties, will be presented by briefs; parties will each be given to and including the 9th day of April to submit briefs; each party will be given 7 days thereafter to file a resp. brief. (HDC-J)hm	
4-2	68.	Brief of Deflt. OK Tax Commission, fld. v <i>get orig. to forward a new copy to cps. arrived 4-6-76. v.</i>	
4-8	69.	Brief of Defts. in Support of Constitutionality of Title 47 O.S. (1971) Supp.) Sec. 22.12, 22.17 & 22.20, filed. jj	
4-9	70.	Brief of Pltf., filed. ph	

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CIVIL DOCKET CONTINUATION SHEET

PLAINTIFF	DEFENDANT	DOCKET NO. <u>75-C-257</u>
Mrs. Gloria Waterloo	D. M. Berry, et al	Sheet 3, Page 6 XXXXXXXXXXXXXXXXXXXX

DATE	NR.	PROCEEDINGS
<u>1976</u>		
4-15	71.	Response of defts. to brief of pltf., filed. ph
4-16	72.	Reply brief of deft. Oklahoma Tax Commission to pltf's brief, filed.k <i>you to</i>
4-16	73.	Pltf's response brief to briefs filed by defts. Okla. Tax Comm., Berry, Leininger, Merrill & Wade, filed.k <i>you a Jo</i>
9-2	MO:	Case set for evid. hearing on 10-1-76 at 1:30 p.m. (HDC-J)hm
9-10	MO:	Case reset for evid. hearing on 10/1/76 at 2:30 p.m. (HDC-J)rm
10-1	73A.	Pltf's memorandum brief, filed. hm
10-1	MO:	Evidentiary hearing held. Parties represented. Opening statements made. Defts' witnesses sworn: Rolland E. Downing, Earl Wade, D. M. Berry and Carl A. Shahan. Defts. rest. Pltf's witness sworn: Gloria Ann Waterloo. Pltf. rests. Parties rest. Closing arguments made and case submitted for decision by the panel. (WJH,AEB,HDC-Judges)hm
10-1		Exhibits from hearing, filed. hm (with file)
10-12	74.	Assignment of bond to Delbert Brock, filed. ph
12-22	75.	Opinion, filed and entered. (WJH,AEB,HDC-Judges)rm-copies mailed
12-22	76.	Judgment, filed and entered, that judg. be entered in favor of defts. D. M. Berry, L. L. Leininger, and J. L. Merrill, ind., jointly and as the Oklahoma Tax Commission, and Earl Wade, ind. and as Tax Agent, and against plaintiff, Gloria Waterloo, in light of this Court's opinion. (WJH, AEB, HDC - Judges) rm - copies mailed
2-1-77	77.	Order of disbursement, filed, directing Clerk to disburse \$1,000.00 posted as bond funds to Delbert Brock. (HDC-J)hm
<u>1980</u>		
7-28	--	EXHIBITS returned to parties. hm